

HONORABLE JOHN H. CHUN

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

FEDERAL TRADE COMMISSION, ET AL.

Plaintiffs,

v.

AMAZON.COM, INC., a corporation,

Defendant.

NO. 2:23-cv-01495-JCC

**REDACTED**

DECLARATION OF MICHAEL MOSSER IN  
SUPPORT OF WALMART'S MOTION TO  
MAINTAIN CERTAIN THIRD-PARTY  
INFORMATION IN THE COMPLAINT  
UNDER SEAL

NOTE ON MOTION CALENDAR:

I, Michael Mosser, declare as follows:

1. I am over the age of 18 and am competent to make this declaration. I make this declaration in support of Walmart's Motion to Maintain Certain Third-Party Information in the Complaint Under Seal. The information herein is based on my personal knowledge and information acquired during the ordinary course of my official professional duties at Walmart, Inc.

("Walmart"), and I would testify truthfully to the facts included herein if called on to do so.

2. I am employed by Walmart as Vice President of Categories for Walmart Marketplace. I have been in this role since December 2022. My primary responsibilities include the Marketplace assortment and category strategies, and leadership of our account management

DECLARATION OF MICHAEL MOSSER IN SUPPORT OF  
WALMART'S MOTION TO MAINTAIN CERTAIN THIRD-PARTY  
INFORMATION IN THE COMPLAINT UNDER SEAL - 1  
(2:23-cv-01495-JHC)

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1 teams. From January 2021 through December 2022, I served as General Manager for Walmart  
2 Marketplaces with responsibility for entertainment, toys, and seasonal.

3 3. I understand that certain paragraphs of the Federal Trade Commission (“FTC”)  
4 complaint in this matter rely on non-public information obtained from Walmart in response to  
5 compulsory process in the FTC’s pre-suit investigation. I have reviewed these paragraphs and the  
6 relevant portions of the underlying documents and testimony that purport to support these  
7 paragraphs. I am familiar with the information that Walmart seeks to maintain under seal and how  
8 that information would be maintained in the ordinary course of business at Walmart.

9 4. The information contained in Paragraphs 213, [REDACTED], 334, and 336-337  
10 (collectively, the “Paragraphs”) of the complaint reveal Walmart’s proprietary and confidential  
11 commercial and business information. The disclosure of this information would result in a serious  
12 risk of harm to Walmart, including threatening to place Walmart at a competitive disadvantage and  
13 otherwise harm its business.

14 5. Walmart is an omni-channel retailer that provides opportunities for consumers to  
15 shop through online marketplaces and in brick-and-mortar retail stores. Walmart’s strategic  
16 decisions, including as to pricing and what it takes to create and maintain a successful marketplace,  
17 are the result of Walmart’s confidential and proprietary investments in its businesses. Walmart  
18 spends considerable time and resources considering, developing, and implementing strategies to  
19 promote the effectiveness of its online marketplaces and to better serve consumers and its third-  
20 party sellers.

21 6. Disclosure of Paragraphs [REDACTED], 334, and 336-337 would provide competitors  
22 with a roadmap into how Walmart thinks about and responds to competition and its underlying  
23 strategic and decision-making processes. Paragraph 337 risks providing competitors with insights  
24 into Walmart’s sensitive profitability analyses, which competitors could use to anticipate and  
25 respond to Walmart’s strategies.

8. Paragraph 213 represents Walmart's proprietary assessment of what it takes to create and maintain a profitable marketplace, including (as depicted in box 3 under point 6 of the graphic) Walmart's confidential and competitively-sensitive profitability strategy. Disclosure of this information risks providing competitors with a competitive advantage by giving them insights into Walmart's strategies, which could be used to anticipate and respond to Walmart's strategies.

9. While some of the information in the Paragraphs identified above reflects historic decisions, it reveals Walmart's underlying strategic decision-making processes, disclosure of which risks equipping competitors with information that could be used against Walmart in current and future competitive scenarios.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed this 23rd day of October, 2023, at Sunnyvale, California.

Michael Mosser